

REMARKS

The Examiner has allowed claims 34–44, 53, and 56–66. The Examiner has rejected claims 45, 47–52. Claims 1–33, 46, 54, and 55 were previously canceled. Claim 45 is being amended to further recite features of the invention. As a result, claims 34–45, 47–53, and 56–66 are pending for examination with claims 34, 45, and 53 being independent. The amendments made find support in the specification and do not constitute new matter.

Allowable Subject Matter

The Examiner has allowed **claims 34–44, 53, and 56–66**. No amendments have been made to these claims. Applicants thank the Examiner for his examination and for finding claims 34–44, 53, and 56–66 allowable.

Rejections under 35 U.S.C. §101

The Examiner has rejected **claims 45 and 47–52** under 35 U.S.C. §101 as being directed to non–statutory subject matter. Applicants respectfully traverse. Even so, Applicants have amended some of the claims to further recite features of the invention.

In particular, **claim 45** has been amended to call for:

*“...wherein the message switch is one of a plurality of message switches that are each software being **executed on one of a plurality of mail servers comprising a conventional server**,...”* (emphasis added)

Amendment

Application Number: 10/690,422

Attorney Docket Number: 315547.01

Support for the amendment can be found in the original specification at least on page 6, lines 20–21 and on page 5, lines 2–3. In particular, the original specification discloses that “the message processor or switch 120 is an application that runs on each mail server 104” (pg. 6, lines 20–21), and further that “System 100 is preferably implemented over a distributed network 102 having multiple conventional servers 104” (pg. 5, lines 2–3). As such, “mail servers 104” are “conventional servers 104”. A conventional server, as known to one of average skill in the art at the time of the invention, is a hardware device capable of special-purpose functionality based on software that is run on the hardware, such as a “message switch” that is “software”. Thus, the claimed “one of a plurality of mail servers comprising a conventional server” executing a “message switch” that is “software” does recite a tangible interconnection with a physical media (the conventional server) and is therefore directed to statutory subject matter (see OA, pg. 2, section 3).

Accordingly, Applicants submit that **claim 45** is directed to statutory subject matter under 35 U.S.C. §101. As such, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 47–52 are dependent on claim 45. As such, claims 47–52 are believed allowable based at least in part upon claim 45.

Request for Allowance

Accordingly, allowance of **claims 45 and 47–52** is respectfully requested.

Amendment
Application Number: 10/690,422
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CONCLUSION

Accordingly, in view of the above remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. Reconsideration and reexamination of the above application is requested. Based on the foregoing, Applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number listed below.

Amendment
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Attorney Docket Number: 315547.01

AMENDMENT

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
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Date: May 5, 2009

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I hereby certify that this correspondence is being electronically deposited with the USPTO via EFS-Web on the date shown below:

May 5, 2009
Date

/Noemi Tovar/
Noemi Tovar

Amendment
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